

6/8/75

Mr. Tom Susman, Counsel
Administrative Practices Subcommittee
Senate Office Bldg.
Washington, D.C.

Dear Tom,

After the second calendar hearing of May 21 and when there had been three postponements at the government's request prior to the first such hearing, I wrote you about the stonewalling and what I took to be a clear campaign to rewrite the law in court. I then alleged and I believe more now that there is what for all practical purposes is a joint DJ-judge campaign to do this.

Jim did get the transcripts of those two hearings. They total about 35 pages. I think you should read them with care, primarily but not exclusively because I see in them redundant indication of my analysis of intent to gut the law. Jim Lesar (484-6023) will, I am sure without asking him, find time to make a xerox for you or take them to you for your copying.

My recovery from the pneumonia and pleurisy was not sufficient to be at the first hearing. I got the transcripts only yesterday. I could not read them until last night.

They do disclose that the judge has taken the fixed position that he will and is entitled to regard whatever he may decide is "substantial compliance" with full compliance.

In the first hearing the AUSA, Michael Ryan, in 12 pages alleged full compliance six times when the record ~~seem~~ made in interrogatories (the judge had read) prior to that hearing and Jim made at it is unequivocal and undenied, that there had not been full compliance from the documents we had been given alone. I am keeping other and more important proofs of non-compliance close, having shared them with Jim only.

The judge blandly ignored the repeated proofs that there had been limited compliance and none from ERDA. He went further in the second hearing. Then Ryan said he expected the ERDA affidavit in response the next day and would shake them up if he didn't have it. He even admitted he was to have had it that day and had heard nothing. In the ensuing more than two weeks only silence. After months beginning with overt lies in which we caught ERDA.

Of course this proof of limited compliance was also proof of FBI and DJ lying to the judge. He blandly pretended it did not exist and that he had to take them in good-faith representation.

After reading these transcripts I made several recommendations to Jim. He will receive them when you get this. We do have very limited time and resources, so I do not know whether if he agrees they will be possible for us. My general recommendation is that we load the record with challenges and problems for the other side (which as of now I am satisfied includes the judge) prior to the next hearing on the 20th. I believe that the judge, as of the time of the second hearing, did intend to moot the case on the 20th. I think this means we have to do all that can possibly deter that and build a firmer record for appeal prior to then.

The record also includes what I regard as prejudice by the judge, aside from his begun rewriting of the law and as it relates to me. He draws upon what is not in the record to allege commercialism to me and the expectation of financial reward and gratuitously he describes me as ~~XXXXXXXXXX~~ "redoundable." (AUSA Ryan added "persistent.")

The absence of any observer from any interested Congressional committee - this is the first case under the amended law - or the press or the general public is, I believe, encouragement to those not in sympathy with the law or determined to nullify it. I have no way of overcoming this.

What I can do I am preparing for. Friday night I will be making a speech at the University of Maryland. I do have pictures that I believe open-minded people will accept as graphic proof of FBI fakery. The judge has twice ignored what we have told him relating to this. I will be adding other proofs of documentary nature to these pictures and will make what effort I can, very limited, to interest the media in it.

If Jim is willing we can then file an added affidavit to the record, with attached pictures and documents. I have not been able to discuss this with him.

In the affidavit filed on the 3rd I allege perjury and ask the judge to look into it and protect my rights. I also allege consistent deception of the courts. I have only one copy. Jim can supply one. I deliberately omitted most proofs in the hope of enticing challenge and because of the cost. I did address "good faith" and compliance.

Sincerely,

Harold Weisberg